

Katherine E. Lyons
klyons@nicolaidesllp.com
(312)-585-1405

July 28, 2017

Via Facsimile and Certified Mail
Return Receipt Requested

Regional Freedom of Information Officer
U.S. EPA, Region 5
77 West Jackson Boulevard (MI-9J)
Chicago, IL 60604-3590

Re: Freedom of Information Act Request
EPA Contract No.: EP-S5-13-01
Site: Beacon & Bridge Market #8
Address: 110 East Broad Street, Linden, MI 48451

Dear Regional Freedom of Information Officer:

The undersigned and Nicolaides Fink Thorpe Michaelides Sullivan LLP represent Liberty Surplus Insurance Corporation ("Liberty") in connection with the lawsuit entitled *Quick-Sav Food Stores Ltd. v. Liberty Surplus Insurance Corporation*, case no. 17-CV-10113 VAR-EAS, pending in the United States District Court for the Eastern District of Michigan (the "declaratory lawsuit"). The Complaint concerns an insurance coverage determination regarding alleged environmental contamination at Beacon & Bridge Market #8, located at 110 East Broad Street, Linden, Genesee County, Michigan (the "Site"). We understand that the EPA conducted an investigation of this incident, and also issued EPA Contract No. EP-S5-13-01. The EPA website states that information about an incident may be obtained by submitting a written Freedom of Information Act ("FOIA") request to the appropriate Regional Freedom of Information Officer. Accordingly, for purposes of discovery in relation to the declaratory lawsuit, we respectfully submit the enclosed FOIA request.

If this request needs to be forwarded to the attention of another person responsible for the requested production, please do so or inform the undersigned whom to contact. Should you have any questions regarding this request, please do not hesitate to contact the undersigned.

Best regards,


Katherine E. Lyons

Enclosure
842139

EPA FREEDOM OF INFORMATION ACT RIDER

DEFINITIONS

1. "Atwell" means Atwell, LLC, a company that conducted environmental investigations of 110 East Broad Street, Linden, Genesee County, Michigan, including any predecessors, subsidiaries, affiliates, branches, divisions, or controlled companies, as well as its agents, employees, or Representatives.

2. "Cambridge" means Cambridge and Property Casualty, broker of the Liberty Policy, located at 1415 Middlebelt, Livonia, Michigan, including any predecessors, subsidiaries, affiliates, branches, divisions, or controlled companies, as well as its agents, employees, or Representatives.

3. "City of Linden" means the City of Linden, Genesee County, Michigan.

4. "Communication" means any oral or written utterance, notation, or statement of any nature whatsoever, by and to whomever made, including but not limited to consultations, conversations, correspondence, dialogues, discussions, interviews, lists, meetings, memoranda, negotiations, and notes.

5. "Complaint" means the Complaint filed by Quick-Sav in the lawsuit entitled *Quick-Sav Food Stores Ltd. v. Liberty Surplus Insurance Corporation*, case no. 17-CV-10113 VAR-EAS, pending in the United States District Court for the Eastern District of Michigan.

6. "Document" means the original or copy of handwriting, typewriting, printing, photostatting, photographing, and every other means of recording upon any tangible or electronic medium including, but not limited to, computer disc, database, or other format, of any form of Communication or representation, including letters, emails, memoranda, notes, transcripts, pleadings, words, pictures, sounds, and symbols, drawings, graphs, charts, photographs, recordings, films, videotapes, statements, diagrams, models, reproductions, reports, and other

data compilations from which information can be obtained, or any combination of them, or other writing of any kind.

7. "EPA" means the United States Environmental Protection Agency.

8. "K.B. Titanium" means K.B. Titanium Designs, Inc., including any predecessors, subsidiaries, affiliates, branches, divisions, or controlled companies, as well as its agents, employees, or Representatives.

9. "LARA" means the State of Michigan Licensing and Regulatory Affairs Bureau of Fire Services Storage Tank Division.

10. "Liberty" means Liberty Surplus Insurance Corporation including any predecessors, subsidiaries, affiliates, branches, divisions or controlled companies, as well as its agents, employees, or Representatives.

11. "Liberty Policy" means the Storage Tank Third-Party Liability, Corrective Action and Cleanup Policy No. TXEDE100300114, effective October 13, 2014 to October 13, 2015, issued to Quick-Sav.

12. "MDEQ" means the Michigan Department of Environmental Quality.

13. "Person" means a natural Person, firm, proprietorship, association, corporation, consortium, partnership, joint venture, syndicate, or any type of organization or entity.

14. "PM Environmental" means PM Environmental, Inc., the environmental consultant engaged by Quick-Sav to investigate the adjacent property owner's assertions, including any predecessors, subsidiaries, affiliates, branches, divisions, or controlled companies, as well as its agents, employees, or Representatives.

15. "Quick-Sav" means Plaintiff/Counterclaim Defendant Quick-Sav Food Stores Ltd. and Rare Holdings, including any predecessors, subsidiaries, affiliates, branches, divisions,

or controlled companies, as well as its agents, employees, or Representatives.

16. "Rare Holdings" means Rare Holdings, LLC and Robert Eastman II, including any predecessors, subsidiaries, affiliates, branches, divisions, or controlled companies, as well as its agents, employees, or Representatives.

17. "Regarding" means directly or indirectly mentioning or describing, pertaining to, being connected with, or reflecting upon a stated subject matter.

18. "Representative" or "Representatives" means any and all agents, employees, servants, partners, officers, directors, attorneys, or other Persons acting or purporting to act on behalf of the Person in question.

19. "Sir Titan" means, collectively, Sir Titan, LLC and K.B. Titanium.

20. "Sir Titan claim" means assertions in an April 23, 2015 letter issued from Sir Titan to Quick-Sav Regarding environmental contamination on, at, or emanating from the Site, and requests for remediation by Sir Titan.

21. "Sir Titan lawsuit" means the case captioned *SirTitan LLC and K B Titanium Designs, Inc., and Kevin Begola v. Quick-Sav Food Stores Ltd.*, case no. 16-106730-CB, pending in the State of Michigan, Genesee County Circuit Court.

22. "Sir Titan, LLC" means Sir Titan, LLC, including any predecessors, subsidiaries, affiliates, branches, divisions, or controlled companies, as well as its agents, employees, or Representatives, and Kevin Begola.

23. "Site" means the gasoline station and convenience store with petroleum underground storage tanks, located at 110 East Broad Street, Linden, Genesee County, Michigan.

24. "Tetra Tech" means Tetra Tech, Inc., including any predecessors, subsidiaries, affiliates, branches, divisions, or controlled companies, as well as its agents, employees, or

Representatives.

25. "Third-Party Complaint" means the third-party complaint filed by Liberty in the lawsuit entitled *Quick-Sav Food Stores Ltd. v. Liberty Surplus Insurance Corporation*, case no. 17-CV-10113 VAR-EAS, pending in the United States District Court for the Eastern District of Michigan.

26. "You" or "Your" means EPA or EPA's.

27. "ZVL" means ZVL, LLC, a Third-Party Defendant and adjacent property owner, including any predecessors, subsidiaries, affiliates, branches, divisions, or controlled companies, as well as its agents, employees, or Representatives, and including Maureen LaFontaine.

28. "ZVL claim" means assertions in a May 2013 notice from ZVL to Quick-Sav that petroleum impacts possibly originated from the Site and impacted adjacent property and requests for remediation by Quick-Sav.

INSTRUCTIONS

1. If You assert that a Request is objectionable, state the objection clearly and specifically identify which part of the Request or the information it requests is objectionable and why.

2. If You assert part of a Request is objectionable, respond to those remaining parts of the Request to which You do not object.

3. If You claim privilege as a ground for failing to answer any Request, respond to that part of the Request that, in Your view, does not seek allegedly privileged information or Communications. For each Request, or a portion thereof, for which You claim a privilege, describe the factual basis for Your claim of privilege in sufficient detail to permit adjudication of the validity of that claim, including, but not limited to, the following: a brief description of the

type of information, Document or Communication; the date of the information, Document or Communication; the name, title and job description of the transmitter of the information, Document or Communication; the name, title and job description of the Person to whom the information Document or Communication was addressed; the name, title and job description of each Person who has received or utilized the information, Document or Communication; a brief description of the subject matter of the information, Document or Communication; and the nature of the privilege claimed.

4. Unless otherwise specified, these Document and Communication requests are limited to materials for the time period ranging from January 2013 to the present day.

5. If You cannot respond to any portion of any of a Request in full, after exercising due diligence to secure the information to do so, so state, and answer to the extent possible, specifying Your inability to answer the remainder, and stating whatever information or knowledge You have concerning the unanswered portions.

6. Any Request phrased in the present tense shall be read as if propounded in the past tense and vice versa as necessary to make the Request inclusive rather than exclusive.

7. "And" and "or" both mean "and" and "or" and shall always be read to require the more inclusive answer as used.

REQUESTS FOR PRODUCTION

REQUEST FOR PRODUCTION NO. 1:

All Documents and Communications Regarding any investigation, assessment, removal, remediation, and/or monitoring of alleged environmental contamination on, at, or emanating from the Site.

RESPONSE:

REQUEST FOR PRODUCTION NO. 2:

All Documents and Communication Regarding any investigation, assessment, removal, remediation, and/or monitoring of alleged environmental contamination on, at, or emanating from the Site, including but not limited to those Documents and Communication exchanged between You and:

- a. The City of Linden;
- b. MDEQ;
- c. Sir Titan;
- d. LARA;
- e. PM Environmental;
- f. Atwell;
- g. ZVL;
- h. Quick-Sav;
- i. Tetra Tech; and
- j. Any other Person with knowledge of any investigation, assessment, removal, remediation, and/or monitoring of alleged environmental contamination on, at, or emanating from the Site.

RESPONSE:

REQUEST FOR PRODUCTION NO. 3:

All Documents and Communication Regarding the ZVL claim.

RESPONSE:

REQUEST FOR PRODUCTION NO. 4:

All Documents and Communication Regarding the Sir Titan claim.

RESPONSE:

REQUEST FOR PRODUCTION NO. 5:

All Documents and/or Communications between You, Tetra Tech, and any other Person
Regarding EPA contract number EP-S5-13-01.

RESPONSE:

REQUEST FOR PRODUCTION NO. 6:

All Documents and/or Communications between You, the MDEQ, and any other Person
Regarding confirmed release number C-0162-14.

RESPONSE:

REQUEST FOR PRODUCTION NO. 7:

All Documents and/or Communications between You, LARA, and any other Person
Regarding discovery of free petroleum product at the Site.

RESPONSE:

REQUEST FOR PRODUCTION NO. 8:

All Documents and/or Communications between You, Atwell, and any other Person
Regarding project number 12001447.

RESPONSE:

REQUEST FOR PRODUCTION NO. 9:

All Documents and/or Communications between You, PM Environmental, and any other
Person Regarding project number 01-04468-0.

RESPONSE:

REQUEST FOR PRODUCTION NO. 10:

All Documents evidencing amounts You paid Regarding the Site, including, but not limited to, all costs of investigation, assessment, removal, remediation, monitoring, defense costs, and all other types of alleged damages, costs, and expenses incurred Regarding alleged contamination on, at, or emanating from the Site.

RESPONSE:

REQUEST FOR PRODUCTION NO. 11:

All Documents Regarding future costs of investigation, assessment, removal, remediation, defense costs, and all other types of alleged damages, costs, and expenses incurred Regarding alleged contamination on, at, or emanating from the Site.

RESPONSE: